

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TIVO INC.,

Plaintiff,

vs.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA,
INC.

Defendants.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA,
INC.,

Counterclaim Plaintiffs,

vs.

TIVO INC.

Counterclaim Defendant.

Case No. 2:15-cv-1503

JURY TRIAL DEMANDED

**SAMSUNG’S UNOPPOSED MOTION FOR LEAVE TO AMEND ITS
INVALIDITY CONTENTIONS**

Pursuant to P.R. 3-6(b), Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung”) hereby moves the Court for leave to amend its invalidity contentions (Samsung’s proposed First Amended Invalidity Contentions are attached hereto as Exhibit 1).¹ TiVo does not oppose this motion.

Samsung seeks leave to amend its invalidity contentions to identify two additional pieces of prior art relevant and important to anticipation and/or obviousness of all asserted claims of TiVo’s 6,233,389; 7,558,472; and 8,457,476 patents. These references are:

¹ Exhibits referenced herein are exhibits to the Declaration of Thad C. Kodish accompanying this motion.

Primary Author or Publisher	Reference Title	Publication/Use Date	Referenced As
Texas Instruments	TMS320AV7110 Integrated Digital Set-top Box Decoder Product Preview	No later than Sep 1997	AV7110 Preview
Texas Instruments	TMS320AV7100 Integrated Digital Set-top Digital Signal Processor	No later than Oct 1997	AV7100 Preview

Samsung diligently sought these prior art references before the original Invalidity Contentions deadline. Specifically, on March 29, 2016, Samsung served non-party Texas Instruments, Inc. (“TI”) with a subpoena seeking technical documents relating to specific TI devices and patents. Samsung attempted to obtain these documents from TI before the parties’ P.R. 3-3 deadline, but TI declined to produce the documents in the absence of a protective order.

On April 25, 2016, the parties served their respective invalidity contentions. In its invalidity contentions, Samsung notified TiVo of Samsung’s intent to supplement the same following receipt of non-party prior art that Samsung had diligently attempted to obtain via subpoenas, specifically specifying forthcoming prior art from TI. (Ex. 1 at 4, 8.)²

The Court entered the existing protective order on April 21, 2016. (D55.) Samsung provided the Protective Order to TI that same day. Six days later, on April 29, 2016, TI served the subpoenaed documents, including the two at-issue references, on both Samsung and TiVo. Six days later, on May 5, 2016, Samsung notified TiVo of Samsung’s intent to supplement its invalidity contentions, providing (1) a copy of the proposed Amended Invalidity Contentions, in redline form to identify the amendments, and (b) the associated claim charts pursuant to P.R. 3-3(c). (Ex. 2.) On May 12, 2016,

² The text in Samsung’s proposed First Amended Invalidity Contentions is unchanged from that in its original Invalidity Contentions except as indicated in redline.

after discussion between the parties, TiVo informed Samsung that it does not oppose this motion.

Samsung contends that TiVo will not be prejudiced by Samsung's amended contentions, given the early stage of the litigation, as well as Samsung's diligence in obtaining the prior art, amending its contentions, and Samsung's prompt notice to TiVo regarding the same.

Samsung therefore respectfully requests that the Court grant Samsung's Unopposed Motion for Leave to Amend its Invalidity Contentions.

Dated: May 12, 2016

Respectfully submitted,

By: /s/Melissa R. Smith

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CERTIFICATE OF CONFERENCE

I hereby certify that counsel have complied with the meet and confer requirement in Local Rule CV-7(h) and this Court's Orders.

/s/Melissa R. Smith
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served via electronic mail on May 12, 2016 to all counsel of record for Plaintiffs who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/Melissa R. Smith
Melissa R. Smith